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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 28th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 April 1998, at 10 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. HYNES (Vice-Chairman)	(Canada)

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The meeting was called to order at 10 a.m.

STATEMENT BY THE MINISTER OF JUSTICE OF TOGO

1. Mr. BABA (Togo) said that Africa's tempestuous political life and armed conflicts had led to a deterioration in the human rights situation on the continent, although the situation was not indeed perfect in any part of the world. All the more credit was due to the Commission for seeking appropriate solutions to human rights violations throughout the world.

2. The democratization process was the great challenge facing the continent on the eve of the twenty-first century, requiring them to build their future and raise their profile in the world, through a transformation of their political activity. Each African State must be persuaded that the only acceptable way forward was to undertake massive internal reforms based on the principles of human rights and culminating in real democracy.

3. Togo subscribed to the ideals of the Universal Declaration of Human Rights and had not only ratified or acceded to all the human rights instruments but had integrated them into its legislation and Constitution. His Government reaffirmed its commitment to the promotion and protection of human rights. Following its irreversible choice of democracy, it had undertaken a vast programme to promote human rights. In its new legal texts, human rights principles had been given a place of honour. The Constitution contained 40 articles on the rights, freedoms and duties of citizens. Article 10 obliged the State to respect, guarantee and protect the inalienable rights of every human being.

4. Good though it was to include rights in a constitutional text, the provision of protection mechanisms was of paramount importance. The Government had therefore, being desirous of laying a firm foundation for democracy and increasing the scope of freedom and justice, taken steps to establish nearly all the human rights institutions provided for under the Constitution of the Fourth Republic, namely, the Constitutional Court, the National Human Rights Commission, the Audio-Visual and Communication Authority, the Supreme Council of Justice and the Supreme Court. Other institutions, such as the Court of Audit, the Parliamentary Court of Justice and the Economic and Social Council, bills concerning which were currently before the National Assembly, would be established in the months to come. Moreover, by signing an agreement on technical cooperation on human rights with the Office of the United Nations High Commissioner for Human Rights in March 1996 his Government had shown its political will to make human rights the cornerstone of the country's development and to embed them in its social and professional life.

5. His Government hoped that the Office of the High Commissioner would be able to strengthen the programme by providing assistance for the new institutions established during 1997, for the media, for human rights

non-governmental organizations (NGOs), for bodies dealing with the welfare of women and children and for prison officers. It was grateful for the assistance already received and looked forward to further advisory services to support the democratic process.

6. Over the coming months, his Government would be engaging in consultations on the presidential election. Consensus, social peace and progress constituted the way to development.

7. His Government recognized the paramount importance of the rights of children and supported the relevant international and regional instruments. It had ratified the Convention on the Rights of the Child and, in October 1997, had submitted its initial report to the Committee on the Rights of the Child. In addition to incorporating the provisions of the Convention into the Constitution, it had drawn up a draft code on the rights and duties of children, designed to combine the provisions of the Convention and those of the African Charter on the Rights and Welfare of the Child of the Organization of African Unity (OAU).

8. His Government had also established within the Ministry of Justice and Human Rights a division dealing with the rights of children, women and other vulnerable groups. The Ministry of Labour and Social Protection had launched a campaign against female genital mutilation and, in December 1997, the Cabinet had approved a bill to abolish the practice in Togo. The Government was being supported in its action by civil associations, NGOs and other women's rights organizations.

9. Education was the driving force of development and the reforms tending to the democratization of education in 1975 had proved useful. Civic education programmes were largely devoted to democracy and human rights. Society could thereby be transformed, by enabling the most vulnerable section of society - the young - to become democratically aware.

10. His Government was committed to the cause of disabled people and the elderly. The problems of an ageing population were relatively new to developing countries, but the Government had adopted a national policy on ageing to ensure that old people were included in the community, at every level.

11. Mindful of the indivisibility of development, democracy and human rights, his Government was pursuing an adjustment policy designed to stabilize the macroeconomic framework and make an optimum allocation of resources among the various economic sectors. That would provide a sound basis for the growth - and the social cohesion - that it dearly wished to achieve. Its domestic efforts, however, needed support from its development partners to strengthen its capacity to manage the economic reforms and to promote dialogue on policies and their implementation.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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(agenda item 8) (continued) (E/CN.4/1998/5, 32-35, 36/Rev.1, 37 and Add.1, 38 and Add.1 and 2, 39 and Add.1 and Add.3-5, 40 and Add.1 and 2, 41-43, 44 and Add.1 and 2, 111, 129 and 139; E/CN.4/1998/NGO/82 and 99; A/52/387).

12. Mr. ABDULGALEEL (Liberation) said that his organization was deeply concerned at the deliberate flouting of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Yemen. All agencies of the Ministry of the Interior engaged in torture. Members of opposition parties were particularly at risk, although the torture of non-political prisoners was also widespread. In September 1997 two men had died as a result of torture and in November a newspaper editor had been violently assaulted by police. Another victim had testified that he had been beaten on his feet for up to eight hours a day. Many journalists had been subjected to systematic harassment, detention, arbitrary arrests and torture.

13. In 1997, at least 771 East Timorese had been arbitrarily detained by the occupation forces and torture had been routinely used. At least 52 detainees had been killed by the Indonesian security forces during that period. Three students taken away by the security forces during protests at the University of East Timor in November 1997 were still unaccounted for. A senior lecturer had been kidnapped and held incommunicado for over three weeks.

14. His organization called on the Commission to adopt a resolution strongly condemning human rights violations in Yemen and in East Timor. The common excuse for torture that police officers needed retraining in human rights was unacceptable.

15. Ms. CHABANET (International Prison Watch) said that her organization was particularly concerned at the conditions in which detainees were held in Latin America. Arrest and detention procedures were not always respected and police custody time limits were regularly exceeded. Persons arrested were humiliated and assaulted and no medical attention was provided.

16. In Ecuador, detainees were held for weeks or months in remand centres, often with untreated wounds, and subjected to psychological threats. They were held 15 to a cell, in dilapidated and damp-ridden quarters - measuring 10 m^2 in Guayaquil and 6 m^2 in Quito - around the clock. Bathrooms were unusable. Inmates were given no food or medical attention. Minors were held

illegally with adults; some police officers deliberately tore up their identity cards to facilitate that procedure. Conditions were equally bad in all remand centres. The authorities had recognized the urgency of the situation, but it remained unchanged.

17. In Venezuela, over 600 cases of ill-treatment had been recorded by local human rights organizations over a recent 12-month period. Those arrested were given electric shocks, had their heads covered with plastic bags or were beaten up and 59 deaths had occurred, 58 at the hands of the National Guard. Conditions were bad. In July 1997 there were 25,511 persons being held in accommodation intended for 16,176. Over 68 per cent of detainees in such conditions were awaiting trial. The authorities allowed an inadequate 450 bolívares per person per day for food. The Ministry of Health had termed the sewage system in most detention centres "inadequate". The reality was that floors were flooded, detainees hung makeshift beds on walls and slops lay unremoved for days on end. There had been 279 cases of cholera in September 1997.

18. Conditions in Mexican prisons were also bad. Prisoners were not housed according to age, sex and category, as required. Placement and punishment were arbitrary. When given solitary confinement, prisoners were held in windowless and unventilated cells for 24 hours a day. If prisoners were visited, they were strip-searched and often their visitors were, too.

19. There were many other countries where similar conditions obtained. Her organization reiterated its request that a special rapporteur should be appointed to investigate detention conditions for persons incarcerated throughout the world.

20. Mr. CITI (International Indian Treaty Council) said that cases of enforced or involuntary disappearances in Latin America, fell into two categories: those of a political nature and those for financial gain. Both categories were destructive of the social fabric.

21. The report of the Mexican Human Rights Commission contained details of a number of named individuals who had been kidnapped by paramilitaries or police in 1997. Such abuses were most common in indigenous communities in southern Mexico. In Guatemala, the whereabouts of 45,000 people who had disappeared during the armed conflict were still unknown while, since the end of the conflict, action against human rights activists had been common. Kidnappings for financial gain were also common. Cases of illegal detention also occurred in Colombia.

22. Ms. MACKENZIE (International Federation of Journalists) urged the Commission to act both on the specific cases she was about to cite and on the issues raised in her organization's written statement (E/CN.4/1998/NGO/95).

23. Over 40 journalists and media workers were killed every year. In 1997, such murders had taken place in Algeria, Argentina, Brazil, Cambodia, Colombia, El Salvador, Guatemala, India, Indonesia, Iran, Mexico, Pakistan, Peru, the Philippines, the Russian Federation, Rwanda, Sierra Leone and Ukraine. Scores of others were detained, often without formal charge and, in Ethiopia, a journalist had died in custody owning to lack of medical

attention. The Commission should request the authorities to provide details, place and reason for the detention of all journalists currently in prison. She mentioned individual cases in Indonesia, Nigeria and Peru.

24. Some Governments, including those of Guatemala and Nicaragua, were using strategies to ensure that advertising did not go to publications or programmes which opposed them. Such activities were an insidious way of keeping control of the media whilst appearing to liberalize advertising income.

25. Mr. VARGAS PIZARRO (Chairman/Rapporteur of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), introducing the working group's report (E/CN.4/1998/42 and Corr.1) said that, since its establishment in 1992, the working group had been drafting an optional protocol intended to establish a preventive mechanism that would include a system of regular visits of experts to all places of detention in a State party in order to identify any problems and make suggestions for remedying them. That innovative system of verification through visits was intended to prevent violations of human rights rather than punish them after they occurred. Representatives of over 52 States as well as experts from the International Committee of the Red Cross (ICRC) and approximately 10 NGOs had participated in the work on the text.

26. At its sixth session in October 1997, 13 articles of the draft protocol had been approved on second reading. There was a general consensus in the working group that major progress had been made and that, if the work continued with the same spirit of cooperation, a final text could be agreed within a short period of time. There were six remaining articles which required further negotiation and some delegations were in favour of convening a three-week session, while others preferred a normal two-week session but with the possibility of a week's extension if it seemed likely that that would produce the final text. Some delegations had also urged him to ask the Commission for the necessary facilities to initiate immediate informal consultations with those delegations which had difficulties with the articles still awaiting approval.

27. Mr. TOSEVSKI (Member of the Board of Trustees, United Nations Voluntary Fund for Victims of Torture) said that, in 1997, the High Commissioner for Human Rights had approved the Board's recommendations for grants to 104 projects submitted by 94 humanitarian organizations in 54 countries, for a total amount of $2,936,054. However, the Fund had received requests for funding amounting to $6.8 million, and its grants thus covered only 43 per cent of all requests.

28. In 1998, the Fund's secretariat had received 120 project proposals for a total amount requested of $6.9 million. Since a request could not exceed a third of the total budget of a project, the real needs of the projects in question were over $23 million. Contributions to the Fund by 31 Governments and one NGO currently amounted to about $2 million.

29. The Secretary-General and the High Commissioner had appealed for contributions to the Fund and about $3 million had been pledged. However, both pledges and new contributions must be paid before the end of April since, at its May meeting, the Board of Trustees would be authorized to consider only contributions registered by the United Nations treasurer before 30 April 1998.

30. In view of the fact that the General Assembly had proclaimed 26 June "United Nations International Day in Support of Victims of Torture", all Governments should seize the opportunity to participate actively in assisting the victims of torture worldwide by contributing to the Fund.

31. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that the death penalty was clearly a cruel, inhuman or degrading punishment, whether administered "hygienically" or abominably. Rather than deterring crime, the death penalty constituted an incitement to crime, particularly in countries where weapons were easily available, for, if the State could kill, so could the individual. Moreover, the prolonged anguish, often lasting for years, in the "death row" of the United States prison system was a dehumanizing form of torture.

32. It was sadly significant that African-Americans constituted the majority of the United States prison population, although they were a minority of the general population. The reason was that they had a high concentration of proverty, social exclusion, and a lack of education. In short, they were victims of de facto racism. That situation could very easily spread to Europe unless efforts were made to stop the growth of racism in European society.

33. Mr. LILLO (Chile) said that persons subjected to detention or imprisonment were very vulnerable and ran the greatest risk of human rights violations at the hands of policemen or prison warders. It was a highly sensitive subject, mainly because of the difficulty in establishing the credibility of a complaint, but cases of abuse of power were sufficiently common to underline the importance of human rights education for police and prison staff.

34. The work of the Special Rapporteur on questions relating to torture and of all other mechanisms working to eliminate the practice of torture would be greatly facilitated by the adoption of the proposed optional protocol which should play a major role in its prevention. His delegation thus supported an extension of the mandate of the working group on the draft optional protocol.

35. His Government had decided to continue contributing to the United Nations Voluntary Fund for Victims of Torture. Since the Fund had rendered valuable assistance to the victims of torture in his country during and immediately after the military regime, his Government felt a particular commitment to its work. It also attached great importance to restitution, compensation and rehabilitation as the essential means of expressing a State's policy towards the victims of human rights violations and his delegation would once again submit a draft resolution calling upon the General Assembly to adopt a set of minimum standard rules on the right to compensation.

36. Mr. RODRIGUEZ (Venezuela) said his delegation regretted that the report of the Special Rapporteur on questions relating to torture had not incorporated the information provided by his Government in January 1998 in response to the concern the Special Rapporteur had expressed. Since the visit of the Special Rapporteur to Venezuela in 1996, important changes had been undertaken at the national level involving the administration of justice, reflecting the desire of the State to put into practice the international principles aimed at eliminating torture and other practices violating human rights. Much progress had been made, with the active participation of civil society, in rooting out undesirable practices through the repeal of the Vagrancy Act, the reform and modernization of military legislation and the adoption of a code of criminal procedure which would come in force in July 1999.

37. Among important aspects of the new code, the period of pre-trial detention, when the danger of torture was greatest, had been reduced to 48 hours and confessions obtained by ill-treatment or any other means which violated the rights of an individual, were no longer admissible in court. In addition, a law was being drafted that would expressly characterize torture as a crime.

38. The authorities were also including human rights education in the basic educational curriculum and were sponsoring courses for serving police officers and new recruits to the security forces focusing on human rights and the prohibition of torture and ill-treatment. The Ministry of Defence had also established an Office of Human Rights and Humanitarian Law which provided training to the armed forces in human rights.

39. His Government attached the greatest importance to the activities of the working group on the draft optional protocol, since it was convinced that the establishment of a mechanism for visits to detention centres would contribute to the prevention and eradication of that obnoxious practice.

40. Ms. DIALLO (Senegal) said that, in its campaign against torture, his Government had emphasized prevention through education and dialogue. It had placed police custody under the effective control of the government procurator and a person under arrest, or indeed anyone else on his behalf, could any time request that he be subjected to a medical examination, and the government procurator was obliged to authorize such an examination.

41. The Senegalese Human Rights Committee was a pluralist forum in which NGOs were able to bring any human rights violations to the attention of the authorities. There was a genuine dialogue between the public authorities and civil society in pursuit of the common objective of effectively implementing the human rights instruments to which Senegal was a party. An inter-ministerial committee provided a permanent interlocutor at the government level.

42. Senegal had done a great deal towards training judges, law officers and the agents responsible for the maintenance of public order. In that connection, following ICRC recommendations, particular emphasis was placed on respect for humanitarian law in the training of the armed forces.

43. The implementation and follow-up of the recommendations of the Committ against Torture were the responsibility of both the Ministry of Justice and the inter-ministerial committee for human rights. Senegalese legislation wa being brought into line with the provisions of the international instruments and a law had been adopted criminalizing torture, as required by the Convention.

44. The President of Senegal had recently ordered that a number of reforms be speeded up and prison administration had been transferred from the Minist of the Interior to the Ministry of Justice in order to consolidate the actio already taken to improve the living conditions of prisoners.

45. Mr. Chul Ki JU (Republic of Korea) said that the Commission had a particular duty to put an end to torture, arbitrary detention and enforced o involuntary disappearances, which were heinous abuses of human rights that could traumatize victims for life. His delegation commended the contributio made by the special rapporteurs and working groups concerned, and thought th the adoption of "opinions" as opposed to "decisions" by the Working Group on Arbitrary Detention would further encourage cooperation between States and human rights institutions. It also considered that the proper use of "urgent action procedures" was an effective and necessary means of providing immediat assistance to those whose lives might be threatened by human rights infringements.

46. The new President of the Republic of Korea had himself been a victim o human rights abuses, torture and arbitrary detention, and was fully aware of the need to strengthen human rights measures. He had declared the promotion of human rights to be a main policy objective of his administration and had granted an amnesty whereby 2,304 prisoners, including 74 who had been held f security reasons, had been released. The amnesty had taken account of suggestions from NGOs, and included the release of all long-term prisoners over the age of 70.

47. Replies had already been given to the references to cases in the Republic of Korea contained in the report of the Working Group on Arbitrary Detention (E/CN.4/1998/44 and Add.1 and 2) and the report of the Special Rapporteur on questions relating to torture (E/CN.4/1998/38 and Add.1 and 2) but it was important to emphasize that the individuals in question had been tried fairly and in accordance with appropriate legal procedures. Some of them had already been released either on bail or through the amnesty; detail would be submitted shortly.

48. As for the allegations by representatives of certain NGOs concerning so-called long-term prisoners in his country and the country's National Security Law, they were factually incorrect and represented a biased view based on unconfirmed or unreliable evidence and thus did not warrant a reply

49. Mr. PLORUTTI (Argentina) said that the establishment of a permanent international criminal court would be a very positive step in the direction putting an end to the impunity of people perpetrating human rights violation such as torture. Argentina, which was firmly committed to combating such impunity, had agreed to the extradition of Erich Priebke to Italy, where he had been tried and sentenced for war crimes, and had established in 1997 a

commission, composed mainly of Argentine and foreign historians, whose purpose was to clarify Nazi activities in Argentina. The commission's first report, submitted in March 1998, concluded that five war criminals had entered Argentina between 1948 and 1950, and that, in the same period, Argentina had recruited 271 technicians in Switzerland to work in its armaments factories. The report had been cautious about linking those persons with the Nazi regime because certain records had still to be examined.

50. One of the main instruments for eradicating torture in Argentina was the inspector of prisons, who had identified a number of cases of ill-treatment of prisoners which he had brought before the courts. Educational programmes were being constantly adapted to ensure that both the general public and civil servants were fully aware of the human rights provisions in the country's domestic legislation and in the treaties to which it was a party. The Inter-American Convention on the Forced Disappearance of Persons had been given constitutional rank in April 1997, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women had been ratified in July 1996.

51. His Government had been carrying out a progressive policy of making reparation for the harm caused by the cases of arbitrary detention, disappearance, torture and ill-treatment that had occurred before 10 December 1983, when democracy had been restored and, as of 24 February 1998, some US$ 655 million had been paid out to 10 million persons who had lodged applications for reparations.

52. Ms. GLOVER (United Kingdom), speaking on behalf of the European Union, the Central and Eastern European countries associated therewith and the associated country of Cyprus, said that, despite clear and universally agreed standards, violations of the basic rights not to be subjected to arbitrary arrest or detention, torture or cruel, inhuman or degrading treatment or punishment continued in all parts of the world. The Union called on all Governments to ensure that their domestic laws and legal systems protected against violations of the rights to a fair trial and to protection from ill-treatment in custody in conformity with international standards and to ensure that those laws were fully implemented and that the legal systems acted unfettered. It also called on all Governments to consider acceding to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and where they had done so, to consider recognizing the competence of the respective committees to consider communications.

53. The Union also called on all Governments to bring to justice those suspected of violating the rights concerned, and to ensure that those who committed acts of torture found no refuge from justice anywhere in the world. The Union also called on all Governments to allow access to the United Nations mechanisms for monitoring States' adherence to the basic international standards on detention and torture, including the Special Rapporteurs on questions relating to torture, on the independence of judges and lawyers, and on freedom of expression, and the Working Groups on Involuntary Disappearances and on Arbitrary Detention, and to implement their recommendations.

54. The Union itself was not free from incidents of detention which violated the basic international standards, but national legal systems existed to address them and the member countries also allowed for external procedures to pursue allegations of human rights violations in that area. They all recognized the jurisdiction of the European Commission of Human Rights and the European Court of Human Rights to police the right to a fair trial and to protection from unlawful detention. They were all parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Committee established by that Convention was able to make inspection visits to any centres of detention within those States. They were also open to the United Nations monitoring mechanisms; the United Kingdom and Belgium had recently received visits from the Special Rapporteur on the independence of judges and lawyers. The Union did much to assist States to comply better with their international obligations: projects included assistance to the Observatoire International des Prisons and to Penal Reform International.

55. The Union welcomed the progress made by the working group on the draft optional protocol and hoped that it would soon reach agreement on the outstanding articles. It was crucial that the optional protocol should provide for adequate access by monitoring bodies to places of detention. The Union welcomed the report of the Working Group on Arbitrary Detention, and was particularly pleased that it had been possible for two of its members to visit China.

56. The Union welcomed the excellent work done by the Special Rapporteur on questions related to torture, and looked forward to his mandate being renewed. It welcomed Mexico's receipt of a visit by him in 1997, and the invitation extended by Turkey for a visit in the last quarter of 1998. It noted that the Government of Cameroon had been in contact with the Special Rapporteur in respect of his long-standing request to visit that country, and hoped that the contact would lead to an early invitation. It also noted with regret that the Governments of China, Egypt, India, Indonesia and Kenya had still not responded to requests by the Special Rapporteur for invitations to visit, and it urged those Governments to reply favourably and speedily.

57. The Union, noting that a legal case was in progress in Malaysia against the Special Rapporteur on the independence of judges and lawyers, recalled that the Secretary-General of the United Nations had issued a certificate of immunity to him and called on all parties in the case to respect that fully.

58. Finally, the Union believed that it was very much in the interest of Algeria that its Government should take steps to investigate allegations of torture. It welcomed that Government's confirmation that it intended fully to meet its international human rights obligations in the context of its programme for democracy and transparency, and encouraged it to make arrangements for early visits by the Special Rapporteurs on the question of torture and on summary, arbitrary or extrajudicial executions.

59. Ms. BERTAGNOLI (Austria), having endorsed the statement by the spokesman for the European Union, said that her Government had followed with great interest the work of the Special Rapporteur on the independence of judges and lawyers since his mandate had been established four years previously, and

welcomed the importance he attached to dialogue with Governments and the emphasis he placed on practical recommendations for the provision of technical assistance to strengthen the independence of the judiciary. Her Government fully agreed that countries in transition faced particular problems in providing an independent and impartial system of justice and that those countries needed special support in terms of resources and assistance. The comprehensive training material for judges and lawyers prepared by the Office of the High Commissioner with input by the Special Rapporteur would be an important tool for that purpose, and its publication was awaited with interest.

60. In many States, children and juveniles were deprived of their liberty without due process and for indeterminate periods; the physical conditions in which they were detained were often abhorrent and law-enforcement systems were often inadequately equipped to deal with the specific aspects of juvenile detention. The separation of children from adult offenders was an essential element of the administration of justice and States must ensure that children and juveniles in detention enjoyed their basic human rights, and were offered educational and vocational training, kept in contact with their families or relatives and given access to legal assistance and complaints procedures.

61. Alternative sentencing, as well as reparation, mediation and restitution, especially for the direct victims of crime, should be promoted as the basic cornerstones of a modern and child-oriented system of juvenile justice. International standards in the field of juvenile justice should be observed; detention should be seen as the last resort and life imprisonment was a completely unsuitable penalty.

62. Mr. MUNAWAR (Indonesia) said that, despite the current economic crisis which was at the forefront of his Government's concerns, it continued to give priority to improving the country's legal machinery for the promotion and protection of human rights. A document setting out the principles for action in that area was incorporated in the guidelines for State policy for the years 1999-2003 recently adopted by the People's Consultative Assembly. Allegations that some Indonesians, including the East Timorese people, were being denied their basic human rights were unfounded. All East Timorese being held in custody were treated in strict conformity with the Indonesian Code of Criminal Procedure, and were in no way subjected to torture, humiliation or other forms of ill-treatment. Persons who had complaints regarding the circumstances of their arrest or detention could seek a pre-trial hearing with a view to obtaining redress. Allegations that violations of human rights continued to take place in East Timor were mere fabrications aimed at discrediting Indonesia which ignored his Government's consistent cooperation with the United Nations human rights mechanisms and its considerable efforts to investigate all allegations of human rights violations.

63. Without asserting that human rights problems did not exist in his country, he wished to emphasize that such abuses as did occur were always a deviation from State policy. His Government was committed to the realization of the human rights of all the citizens of Indonesia and would always cooperate in providing any relevant information that might be requested by the

Commission or its mechanisms. In that connection, he recalled that, in recent years, Indonesia had received invited visits by various thematic rapporteurs and members of the Sub-Commission, by the previous High Commissioner for Human Rights and by the Special Envoy of the Secretary-General.

64. Mr. Hynes (Canada), Vice-Chairman, took the Chair.

65. Ms. ANDERSON (Ireland), having endorsed the statement by the spokesman for the European Union, said that she wished to add a few remarks on the subject of the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1998/39 and Add.1, and Add.3-5). At a time when Mr. Cumaraswamy was the subject of legal action in Malaysia arising from his role as Special Rapporteur, her delegation considered it particularly important to express its recognition of his work. Mr. Cumaraswamy's report on his visit to the United Kingdom and Northern Ireland (E/CN.4/1998/39/Add.4) provided a good example of his painstaking and committed approach.

66. Her Government continued to have serious concerns about the circumstances surrounding the killing of Mr. Patrick Finucane and reports of the intimidation of other defence lawyers in Northern Ireland. The issues addressed in the report had, of course, been previously discussed between the Irish and United Kingdom Governments within the framework of their Intergovernmental Conference. She thanked the Special Rapporteur for his observations and recommendations, which would be of considerable assistance in addressing the need to build confidence in the administration of justice on the part of both traditions in Northern Ireland, and urged all concerned to accept the report in that spirit.

67. Mr. JERKIC (Observer for Bosnia and Herzegovina) said that resolution of the problem of missing persons was a crucial prerequisite for the re-establishment of confidence and normal life in his country as well as a most important element in its overall human rights situation. There were still some 20,000 persons registered as missing in Bosnia and Herzegovina, and it was becoming more and more unlikely that most of them would be found alive. Indeed, the majority could be assumed to have fallen victim to genocide and ethnic cleansing. It was necessary, however, to investigate reports that secret prisons or detention camps still existed in Serbia.

68. Uncertainty about the fate of missing relatives placed the survivors in an intolerable situation, not only because they could not move on and rebuild their own lives but also because of the many administrative and legal problems that had to be addressed. The need to bring that uncertainty to an end was essential to the process of reconciliation and reconstruction. The joint exhumation process, under the auspices of the Office of the High Commissioner for Human Rights, as well as the so-called identification project consisting in the sifting of ante-mortem and post-mortem data and other leads to the identification of mortal remains, were of great importance in that connection. He wished to thank all the Governments assisting those processes and appealed to all who could provide help to do so without delay.

69. Mr. MINEVES-TRIQUELL (Observer for Andorra) said that, since its admission to the United Nations in 1993, Andorra had been a steady contributor to the United Nations Voluntary Fund for Victims of Torture. As a result of a

recent decision by his Government, its next contribution to the Fund would be considerably larger than the pledge made on 4 November 1997. His delegation was extremely interested in the work on the draft optional protocol. It saluted the Commission's efforts to achieve the universal abolition of the death penalty and intended to be a sponsor of the draft resolution to that effect.

70. Mr. NYLANDER (Observer for Norway) said that his delegation welcomed the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/1998/40 and Add.1 and 2) and was in favour of the planned preparation of a joint report with the Special Rapporteur on violence against women which would underline the link between freedom of opinion and expression and the human rights of women.

71. His Government was working actively towards the establishment of a permanent international criminal court within the United Nations system and urged all States to participate constructively in the forthcoming Rome conference with a view to finalizing the statute of the court.

72. While the report of the Special Rapporteur on questions related to torture (E/CN.4/1998/38 and Add.1 and 2) revealed a high incidence of torture in many countries, it also indicated that the practice had diminished in some countries, especially those where there was a United Nations presence pursuant to a peace agreement. There was no doubt that the work of the United Nations would continue to contribute towards putting an end to torture and other cruel, inhuman or degrading treatment or punishment. However, as the Special Rapporteur had rightly pointed out, the heart of the problem was the impunity of the perpetrators. Implementation of the Convention through effective national legislation was therefore crucial for the prevention of torture.

73. Mr. HAFEZ (Observer for Egypt) said that his delegation, which had participated in the work of the open-ended working group on the draft optional protocol, considered that the working group's report (E/CN.4/1998/42) merited the Commission's approval. Egypt had also fully cooperated with the Special Rapporteur on questions related to torture and, as would be seen from the relevant part of his report (E/CN.4/1998/38/Add.1, p. 21), had provided detailed information on the cases brought to its attention.

74. While reiterating the assurance that all procedures involving arrest and detention in his country were carried out in accordance with strict legality, he emphasized the need for international cooperation to combat terrorism, one of the greatest threats to the protection and enjoyment of human rights. Terrorism and the associated phenomenon of impunity had assumed transnational proportions and it was essential that no country should stand aside from the effort to protect people's security and right to life.

75. Commenting on remarks by the representative of the Arab Organization for Human Rights, he said that, before coming to Cairo to attend a meeting of that organization in 1993, the former Minister of Law of Libya had not requested any special protection. An intensive search had been carried out by the

Egyptian authorities immediately upon receipt of news of his disappearance. A complaint that the authorities had been deliberately remiss in that respect had been rejected by an Egyptian court.

76. Mr. GUPTA (Indian Council of Education) said that, in the experience of many developing countries, it was the law itself, or the way in which the law was applied by the police, that was mainly responsible for enforced disappearances. Unfortunately, countries where the problem was most acute were also those which were increasingly exposed to terrorism, often financed and sponsored from abroad. Public perception in such countries favoured stern action against terrorists, thus creating conditions that enabled the officers of the State to act with impunity.

77. It was important that the Commission should sponsor educational efforts to increase awareness of the long-term implications of enforced disappearances or custodial deaths, but the exercise would be futile unless it was combined with a determined effort to stamp out terrorism and, in particular, to censure those countries which offered a haven to mercenaries and terrorists. Human rights groups and NGOs could make an important contribution in that regard. Moreover, since no question relating to human rights could be understood in isolation, the Working Group on Enforced or Involuntary Disappearances should also consider the issue of violations arising from actions committed by groups outside the Government.

78. Mr. KHOLI (European Union of Public Relations) said that torture and inhuman or degrading treatment also existed outside the penitentiary context. In Afghanistan, for example, women who accounted for half of the population, were subjected to conditions equivalent to the worst forms of discrimination and degrading treatment. In Pakistan, too, discrimination against women had the sanction of the law. Instead of adopting traditional approaches, the Commission should focus its attention on groups which imprisoned people's minds and souls and upon the mentors of those groups.

The meeting rose at 1 p.m.